

13-1601. Definitions

In this chapter, unless the context otherwise requires:

1. "Damaging" means damage as defined in section 13-1701.
2. "Defacing" means any unnecessary act of substantially marring any surface or place, by any means, or any act of putting up, affixing, fastening, printing or painting any notice on any structure, without permission from the owner.
3. "Litter" includes any rubbish, refuse, waste material, offal, paper, glass, cans, bottles, organic or inorganic trash, debris, filthy or odoriferous objects, dead animals or any foreign substance of whatever kind or description, including junked or abandoned vehicles, whether or not any of these items are of value.
4. "Property of another" means property in which any person other than the defendant has an interest, including community property and other property in which the defendant also has an interest and, for damage caused by theft of scrap metal, the property of other persons damaged directly or indirectly as a result of the acts of the defendant.
5. "Tamper" means any act of interference.
6. "Tampering with utility property" means any of the following if committed against property that is owned or operated by a utility for the purposes of transmission or distribution:
 - (a) Rearranging, damaging, altering, interfering with or otherwise preventing the performance of a normal or customary function of utility property.
 - (b) Connecting any wire, conduit or device to any utility property without authorization.
 - (c) Defacing, puncturing, removing, reversing or altering any utility property.
 - (d) Preventing any meter from properly measuring or registering.
 - (e) Taking, receiving, using or converting to personal use or the use of another any utility service that has not been measured or authorized.
 - (f) Diverting or changing the intended course or path of the utility service without the authorization or consent of the utility.
 - (g) Causing, procuring, permitting, aiding or abetting any person to do any of the acts listed in this paragraph.
7. "Utility" means any enterprise, public or private, that provides gas, electric, irrigation, steam, water, water conservation, sewer or communications services, as well as any common carrier on land, rail, sea or air.

13-1602. Criminal damage; classification

- A. A person commits criminal damage by:
1. Recklessly defacing or damaging property of another person.
 2. Recklessly tampering with property of another person so as substantially to impair its function or value.
 3. Recklessly damaging property of a utility.
 4. Recklessly parking any vehicle in such a manner as to deprive livestock of access to the only reasonably available water.
 5. Recklessly drawing or inscribing a message, slogan, sign or symbol that is made on any public or private building, structure or surface, except the ground, and that is made without permission of the owner.
 6. Intentionally tampering with utility property.

B. Criminal damage is punished as follows:

1. Criminal damage is a class 4 felony if the person recklessly damages property of another in an amount of ten thousand dollars or more.

2. Criminal damage is a class 4 felony if the person recklessly damages the property of a utility in an amount of five thousand dollars or more or if the person intentionally tampers with utility property and the damage causes an imminent safety hazard to any person.

3. Criminal damage is a class 5 felony if the person recklessly damages property of another in an amount of two thousand dollars or more but less than ten thousand dollars.

4. Criminal damage is a class 6 felony if the person recklessly damages property of another in an amount of one thousand dollars or more but less than two thousand dollars.

5. Criminal damage is a class 1 misdemeanor if the person recklessly damages property of another in an amount of more than two hundred fifty dollars but less than one thousand dollars.

6. In all other cases criminal damage is a class 2 misdemeanor.

C. For a violation of subsection A, paragraph 5 of this section, in determining the amount of damage to property, damages include reasonable labor costs of any kind, reasonable material costs of any kind and any reasonable costs that are attributed to equipment that is used to abate or repair the damage to the property.

13-1603. Criminal littering or polluting; classification

A. A person commits criminal littering or polluting if the person without lawful authority does any of the following:

1. Throws, places, drops or permits to be dropped on public property or property of another that is not a lawful dump any litter, destructive or injurious material that the person does not immediately remove.

2. Discharges or permits to be discharged any sewage, oil products or other harmful substances into any waters or onto any shorelines within this state.

3. Dumps any earth, soil, stones, ores or minerals on any land.

B. Criminal littering or polluting is punishable as follows:

1. A class 6 felony if the act is a knowing violation of subsection A in which the amount of litter or other prohibited material or substance exceeds three hundred pounds in weight or one hundred cubic feet in volume or is done in any quantity for a commercial purpose.

2. A class 1 misdemeanor if the act is a knowing violation of subsection A, paragraph 1 in which the amount of litter or prohibited material or substance is more than one hundred pounds in weight but less than three hundred pounds in weight or more than thirty-five cubic feet in volume but less than one hundred cubic feet in volume and is not done for a commercial purpose.

3. A class 1 misdemeanor if the act is not punishable under paragraph 1 of this subsection and involves placing any destructive or injurious material on or within fifty feet of a highway, beach or shoreline of any body of water used by the public.

4. A class 2 misdemeanor if the act is not punishable under paragraph 1, 2 or 3 of this subsection.

C. If a fine is assessed for a violation of subsection A, paragraph 1 or 2, one hundred per cent of any assessed fine shall be deposited in the general fund of the county in which the fine was assessed. At least fifty per cent of the fine shall be used by the county for the purposes of illegal dumping cleanup.

13-1604. Aggravated criminal damage; classification

A. A person commits aggravated criminal damage by intentionally or recklessly without the express permission of the owner:

1. Defacing, damaging or in any way changing the appearance of any building, structure, personal property or place used for worship or any religious purpose.
2. Defacing or damaging any building, structure or place used as a school or as an educational facility.
3. Defacing, damaging or tampering with any cemetery, mortuary or personal property of the cemetery or mortuary or other facility used for the purpose of burial or memorializing the dead.
4. Defacing, damaging or tampering with any utility or agricultural infrastructure or property, construction site or existing structure for the purpose of obtaining nonferrous metals.

B. Aggravated criminal damage is punishable as follows:

1. If the person intentionally or recklessly does any act described in subsection A of this section that causes damage to the property of another in an amount of ten thousand dollars or more, aggravated criminal damage:

(a) Resulting from actions described in subsection A, paragraph 1, 2 or 3 of this section is a class 4 felony.

(b) Resulting from actions described in subsection A, paragraph 4 of this section is a class 3 felony.

2. If the person intentionally or recklessly damages property of another in an amount of one thousand five hundred dollars or more but less than ten thousand dollars, aggravated criminal damage:

(a) Resulting from actions described in subsection A, paragraph 1, 2 or 3 of this section is a class 5 felony.

(b) Resulting from actions described in subsection A, paragraph 4 of this section is a class 4 felony.

3. In all other cases aggravated criminal damage is:

(a) A class 6 felony if it results from actions described in subsection A, paragraph 1, 2 or 3 of this section.

(b) A class 5 felony if it results from actions described in subsection A, paragraph 4 of this section.

C. In determining the amount of damage to property, damages include the cost of repair or replacement of the property that was damaged, the cost of the loss of crops and livestock, reasonable labor costs of any kind, reasonable material costs of any kind and any reasonable costs that are attributed to equipment that is used to abate or repair the damage to the property.

13-1605. Aggregation of amounts of damage

Amounts of damage caused pursuant to one scheme or course of conduct, whether to property of one or more persons, may be aggregated in the indictment or information at the discretion of this state in determining the classification of an offense in violation of this chapter.